

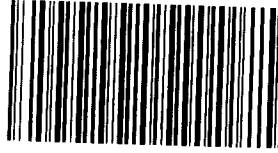
Stephen L. Vagnini
Monterey County Recorder
Recorded at the request of
Stewart Title

CRMARIA
3/21/2006
8:00:00

RECORDING REQUESTED BY:

U. S. Army Corps of Engineers
Real Estate Division, ATTN: CESP-K-RE-MC
1325 J Street
Sacramento, CA 95814-2922

DOCUMENT: **2006024699**



Titles: 1/ Pages: 32

Fees.....
Taxes.....
Other.....
AMT PAID _____

WHEN RECORDED, MAIL TO:

Department of Toxic Substances Control
Northern California Region
8800 Cal Center Drive
ATTN: Anthony J. Landis, P.E.
Chief of Northern California Operations
Office of Military Facilities
Sacramento, CA 95826-3200

(Space Above This Line For Recorder's Use Only)

COVENANT TO RESTRICT USE OF PROPERTY ENVIRONMENTAL RESTRICTION

Re: This Covenant and Agreement ("Covenant") is for a portion of the former Fort Ord consisting of Parcels E2d.3.1, E5a.2 and L5.10.2 (the "Property"). The Property is described in the Finding of Suitability to Transfer (FOST), Track 0 and Track 0 Plug-in B Parcels. The Property lies within a "Special Groundwater Protection Zone" as shown on the Former Fort Ord Special Groundwater Protection Zone Map (Exhibit "A") and defined by Monterey County Ordinance 04011 (Exhibit "B"). The Property, described below and shown on Exhibit "C", is within the jurisdiction of the City of Marina, California. Parcel E2d.3.1 is in the Main Garrison area of the former Fort Ord, Parcel E5a.2 is adjacent to the Preston Park housing area and Parcel L5.10.2 is a portion of Reservation Road adjacent to the Marina Municipal Airport (formerly Fritzsche Army Airfield). Use of groundwater is prohibited on the Property. Representatives of the State of California and the United States have signed previous Covenants for portions of the former Fort Ord within the Special Groundwater Protection Zone.

This Covenant is made by and among The United States of America acting by and through the United States Department of the Army (also referred to herein as the "Covenantor"), the current owner of the herein described real property located in the County of Monterey, State of California, shown on Exhibit "C" and described in Exhibit "D", attached hereto and incorporated herein by this reference (the "Property"), the State of California acting by and through the Department of Toxic Substances Control ("Department"), and the Central Coast Regional Water

CRUP/Special Groundwater Protection Zone - Prohibition Zone/FOST - Track 0 and Track 0 Plug-in B Parcels (FOST 8)/Marina Group Parcels

Quality Control Board (“Regional Water Board”).

The Covenantor’s statutory authority for transferring this Property is the Defense Base Closure and Realignment Act of 1990 (P.L. 101-510, Title XXIX, Nov. 5, 1990, as amended). The Covenantor intends to transfer the Property to the Fort Ord Reuse Authority (FORA). As a part of that transfer, the Covenantor will impose separate deed restrictions on the Property, which will be similar to the restrictions contained in this Covenant. FORA intends to transfer the parcels it receives to the City of Marina.

The Department and the Regional Water Board also wish to expedite the transfer of this property to FORA pursuant to the requirements of the Comprehensive Environmental Response, Compensation, and Liability Act (“CERCLA” 42 USCA § 9601 et seq.), Section 120(h). All of the former Fort Ord facility is subject to the requirements of CERCLA.

Pursuant to California Civil Code Section 1471(c), the Department and the Regional Water Board have determined that this Covenant is reasonably necessary to protect present or future human health or safety or the environment as a result of the presence of hazardous materials, as defined in the California Health and Safety Code (“H&SC”) Section 25260(d), in the groundwater, and to protect waters of the state in accordance with California Water Code Division 7.

The Covenantor, the Department and the Regional Water Board, collectively referred to as the “Parties”, hereby agree that the use of the Property will be restricted as set forth in this Covenant.

ARTICLE I

STATEMENT OF FACTS

1.01 The Covenantor has conducted remedial investigations at the former Fort Ord under the supervision and authority of the Department, the Regional Water Board and the United States Environmental Protection Agency (U.S. EPA). These remedial investigations identified contaminate plumes in the groundwater underlying the former Fort Ord in four areas, which are designated as Operable Unit 1 (OU1), Operable Unit 2 (OU2), Sites 2 and 12 (Sites 2/12) and Operable Unit Carbon Tetrachloride Plume (OUCTP), collectively referred to as the “Plumes”. The groundwater in these four areas is contaminated with volatile organic compounds (VOCs). For OU1, OU2 and Sites 2/12, the primary Contaminant of Concern (COC) is trichloroethylene (TCE). For OUCTP, the primary COC is carbon tetrachloride (CT).

1.02 The maximum estimated concentration of TCE in the groundwater beneath the former Fort Ord is 84 micrograms per liter (µg/L) as of June 2005. TCE is known to the State of California (“State”) to cause cancer. The State Maximum Contaminant Level (MCL) for TCE is 5 µg/L.

1.03 The maximum estimated concentration of CT in the groundwater beneath the former Fort Ord is 11 µg/L as of June 2005. CT is known to the State to cause cancer. The State MCL for CT is 0.5 µg/L.

1.04 Pursuant to the Fort Ord Federal Facility Agreement, signed by the Parties and the U.S. EPA in 1990, in which the Army agreed to complete the cleanup at Fort Ord, Records of Decision (RODs) were signed by the Parties and the U.S. EPA for OU1, OU2 and Sites 2/12. The OU1, OU2 and Sites 2/12 contaminant plumes are undergoing extraction and treatment pursuant to the RODs. Locations of extraction and injection wells for the treatment systems and the locations of monitoring wells located on the Property are shown in Exhibit “C”. The Covenantor and the U.S. EPA will prepare a ROD documenting the decision on remedial action for OUCTP, which will also be reviewed by the Department and the Regional Water Board.

1.05 The Covenantor has prepared and maintains the “Former Fort Ord Special Groundwater Protection Zone Map” (also referred to herein as the “Map” and attached as Exhibit “A”). The Map identifies the “Prohibition Zone,” which encompasses the area overlying or adjacent to the Plumes at the former Fort Ord. The Property is located within the Prohibition Zone.

1.06 Monterey County (also referred to herein as the “County”) has enacted Ordinance No. 04011 (also referred to herein as the “Ordinance” and attached as Exhibit “B”). The Ordinance prohibits the construction of water wells and acceptance by the County of applications for well construction permits within the Prohibition Zone, as identified on the Map.

1.07 Chapter 13.12 of the City of Marina (also referred to herein as the “City”) Municipal Code (also referred to herein as the “Code”) regulates the construction of water wells so as to protect the quality of groundwater. Section 13.12.030 of the Code requires a written permit to construct a water well first be obtained from the County.

1.08 The Property, consisting of three non-contiguous parcels and totaling approximately 53.133 acres, is more particularly depicted in Exhibit “C” and described in Exhibit “D”. The Property is located on the former Fort Ord, California and within the jurisdiction of the City of Marina, California. The Property is summarized in the table below.

Parcel Number	Acres	Name on Legal Description in Exhibit D	Intended Reuse
E2d.3.1	25.167	EDC Parcel E2d.3.1	Development / Mixed Use
E5a.2	15.400	EDC Parcel E5a.2	Development / Mixed Use
L5.10.2	12.566	EDC Parcel L5.10.2	ROW / Reservation Road

1.09 The estimated minimum depths to groundwater and maximum concentrations of TCE and CT in the groundwater beneath the Property, as of June 2005, are listed in the table below.

Parcel Number	Estimated Minimum Depth to Groundwater (feet below ground surface)	Estimated Maximum Concentration of TCE (µg/L)	Estimated Maximum Concentration of CT (µg/L)
E2d.3.1	114.86	1.3	Not Detected (ND)
E5a.2	63.87	ND	ND
L5.10.2	68.21	ND	ND

ARTICLE II

DEFINITIONS

- 2.01 Department. “Department” means the California Department of Toxic Substances Control and includes its successor agencies, if any.
- 2.02 Regional Water Board. “Regional Water Board” means the California Regional Water Quality Control Board, Central Coast Region, and includes its successor agencies, if any.
- 2.03 U.S. EPA. “U.S. EPA” means the United States Environmental Protection Agency.
- 2.04 Water Agency. “Water Agency” means the Monterey County Water Resources Agency.
- 2.05 Health Department. “Health Department” means the Monterey County Environmental Health Department.
- 2.06 Covenantor. “Covenantor” means the United States of America acting through the Department of the Army.
- 2.07 Owner. “Owner” means the Covenantor’s successors in interest, and their successors in interest, including heirs and assigns, during their ownership of all or any portion of the Property.
- 2.08 Occupant. “Occupant” means Owners and any person or entity entitled by ownership, leasehold, or other legal relationship to the right to occupy any portion of the Property after the Covenantor has conveyed the Property.

ARTICLE III

GENERAL PROVISIONS

- 3.01 Restrictions to Run with The Land. This Covenant sets forth protective provisions, covenants, restrictions, and conditions (collectively referred to as “Restrictions”), subject to

which the Property and every portion thereof shall be improved, held, used, occupied, leased, sold, hypothecated, encumbered, and/or conveyed. Each and every Restriction: (a) runs with the land pursuant to Health and Safety Code Sections 25222.1, and 25355.5(a)(1)(c), and Civil Code Section 1471; (b) inures to the benefit of the Department and the Regional Water Board and passes with each and every portion of Property; (c) is for the benefit of, and is enforceable by, the Department and the Regional Water Board; and (d) is imposed upon the entire Property unless expressly stated as applicable only to a specific portion thereof.

3.02 Binding upon Owners/Occupants. Pursuant to Health and Safety Code Sections 25222.1 and 25355.5(a)(1)(C) and Civil Code Section 1471, this Covenant binds all Owners and Occupants of the Property, and their heirs, successors, and assignees, and their agents, employees, and lessees. Pursuant to Civil Code Section 1471(b), all successive Owners and Occupants of the Property are expressly bound hereby for the benefit of the Department and the Regional Water Board.

3.03 Written Notice of Release of Hazardous Materials. Prior to the sale, lease, or sublease of the Property, or any portion thereof; or the execution of a license or easement on the Property, the owner, lessor, or sublessor shall give the buyer, lessee, or sublessee written notice that hazardous materials are located beneath the Property as required by Health and Safety Code Section 25359.7.

3.04 Accompaniment to Deeds and Leases. This Covenant shall accompany all deeds and leases for any portion of the Property.

3.05 Conveyance of Property. The immediate past Owner shall notify the Department, the Regional Water Board, the Water Agency, and the Health Department not later than thirty (30) days after executing any document conveying any ownership interest in the Property (excluding short-term rentals and leases, mortgages, liens, and other non-possessory encumbrances). None of the above agencies shall have, by reason of this Covenant, authority to approve, disapprove, or otherwise affect any proposed conveyance, except as otherwise provided by law, by administrative order, or by a specific provision of this Covenant.

3.06 Costs of Administering this Covenant. The Department has incurred and will in the future incur costs associated with the administration of this Covenant. Pursuant to California Code of Regulations, title 22, section 67391.1(h), the Department's costs associated with the administration of this Covenant must be paid. In order to accomplish this, the Department intends to enter into an agreement with FORA and the City of Marina to pay the Department's costs associated with the administration of this Covenant.

ARTICLE IV

RESTRICTIONS

4.01 Prohibited Activities. The following activities are prohibited on the Property:

- (a) Construction of groundwater wells for injection or extraction and utilization, and
- (b) Any other activity on the Property that would interfere with or adversely affect the groundwater remediation systems on the Property or result in the creation of a groundwater recharge area (e.g., unlined surface impoundments or disposal trenches).
Normal landscaping and irrigation activities within the Property including routine irrigation practices are not prohibited activities.

4.02 Notification of Discovery of Activities Affecting Groundwater Systems. The Owner or Occupant shall notify the Department, the Regional Water Board, the Water Agency, the Health Department, U.S. EPA, and the Covenantor of the discovery of any activities conducted by the Owner or Occupant interfering with or adversely affecting any groundwater extraction, treatment, or monitoring installation for the Property. The Owner or Occupant shall provide the notification in accordance with Section 7.04 within seven (7) working days after the discovery of the activity and shall include information regarding the type of activity, date of the activity, and location of the activity on the Property.

4.03 Access. The Department, the Regional Water Board, Covenantor, and their contractors and agents shall have reasonable right-of-entry and access to the Property for inspection, monitoring, testing, sampling, installation and monitoring of remedial systems, and other activities consistent with the purposes of this Covenant as deemed necessary by the Department and the Regional Water Board in order to protect the public health and safety or the environment and oversee any required activities.

ARTICLE V

IMPLEMENTATION AND ENFORCEMENT

5.01 Implementation. Implementation of this Covenant shall be achieved by:

- (a) Continued updating of the Map by the Covenantor in consultation with the Department, the Regional Water Board and the U.S. EPA.
- (b) Implementation and enforcement of the Ordinance by the County.
- (c) Implementation and enforcement of the Code by the City.
- (d) Covenantor's annual review of the Property with an annual letter report to the Department and the Regional Water Board summarizing, for the previous calendar year, the following:
 - 1. Any changes to the Map in the previous calendar year;

2. Any significant changes to the Plumes as described by regular groundwater monitoring reports;
3. The disposition of well permit applications submitted to the County for proposed well locations on the Property; and
4. Any prohibited activities, as described in Section 4.01 of this Covenant, observed by or reported to the Covenantor during the course of the review.

5.02 Enforcement. Failure of the Owner or Occupant to comply with any of the Restrictions specifically applicable to it shall be grounds for the Department or the Regional Water Board, by reason of this Covenant, to require that the Owner or Occupant modify or remove any improvements ("Improvements" herein shall include, but are not limited to, all buildings, roads, driveways, and paved parking areas, water wells, and surface impoundments) constructed or placed upon any portion of the Property in violation of this Covenant. Violation of this Covenant shall be grounds for the Department or the Regional Water Board to file civil or criminal actions against the Owner or Occupant as provided by law.

ARTICLE VI

VARIANCE, TERMINATION AND TERM

6.01 Variance. The Covenantor, any Owner or, with the Owner's written consent, any Occupant of the Property, may apply to the Department for a written variance from the provisions of this Covenant. Such application shall be made in accordance with H&SC Section 25233. The Department shall receive the concurrence of the Regional Water Board, with an opportunity to comment by U.S. EPA and the Covenantor, before any such variance is effective.

6.02 Termination. The Covenantor, any Owner and/or, with the Owner's written consent, any Occupant of the Property, or any portion thereof, may apply to the Department for a termination of the Restrictions or other terms of this Covenant as they apply to all or any portion of the Property. Such application shall be made in accordance with H&SC Section 25234. The Department shall receive the concurrence of the Regional Water Board, with an opportunity to comment by U.S. EPA and the Covenantor, before any such termination is effective.

6.03 Term. Unless ended in accordance with the termination paragraph above, by law, or by the Department and the Regional Water Board in the exercise of their discretion, this Covenant shall continue in perpetuity.

ARTICLE VII

MISCELLANEOUS

7.01 No Dedication Intended. Nothing set forth in this Covenant shall be construed to be a gift or dedication, or offer of a gift or dedication of the Property, or any portion thereof to the general public or anyone else for any purpose whatsoever.

7.02 State of California References. All references to the State of California, the Department, and the Regional Water Board include successor agencies/departments or other successor entity(ies) and delegated agencies.

7.03 Recordation. The Covenantor shall record this Covenant, with all referenced Exhibits, in the County of Monterey within ten (10) days of the Covenantor's receipt of a fully executed original and prior to transfer of the Property from the Department of the Army to another Owner.

7.04 Notices. Whenever any person gives or serves any Notice ("Notice" as used herein includes any demand or other communication with respect to this Covenant), each such Notice shall be in writing and shall be deemed effective: (1) when delivered, if personally delivered to the person being served or to an officer of a corporate party being served, or (2) three (3) business days after deposit in the mail, if mailed by United States mail, postage paid, certified, return receipt requested:

To Covenantor:	Director, Fort Ord Office Army Base Realignment and Closure P.O. Box 5008 Presidio of Monterey, CA 93944-5008
To Department:	Chief of Northern California Operations Office of Military Facilities Department of Toxic Substances Control 8800 Cal Center Drive Sacramento, CA 95826-3200
To Regional Water Board:	Executive Officer California Regional Water Quality Control Board Central Coast Region 895 Aerovista Place, Suite 101 San Luis Obispo, CA 93401-7906
To U.S. EPA:	Chief, Federal Facility and Site Cleanup Branch Superfund Division U.S. Environmental Protection Agency, Region IX 75 Hawthorne Street, Mail Code: SFD-8-3 San Francisco, CA 94105-3901

To Water Agency: General Manager
Monterey County Water Resources Agency
893 Blanco Circle
Salinas, CA 93901-4455

To Health Department: Chief, Environmental Health Division
Monterey County Health Department
1270 Natividad Road
Salinas, CA 93906-3122

Any party may change its address or the individual to whose attention a Notice is to be sent by giving written Notice in compliance with this paragraph.

7.05 Partial Invalidity. If any provision of this Covenant is determined by a court of competent jurisdiction to be invalid for any reason, the surviving portions of this Covenant shall remain in full force and effect as if such portion found invalid had not been included herein.

7.06 Exhibits. All exhibits referenced in this Covenant are deemed incorporated into this Covenant by reference.

7.07 Section Headings. The section headings set forth in this Covenant are included for convenience and reference only and shall be disregarded in the construction and interpretation of any of the provisions of this Covenant.

7.08 Statutory References. All statutory references include successor provisions.

7.09 Representative Authority. The undersigned representative of each party to this Covenant certifies that he or she is fully authorized to enter into the terms and conditions of this Covenant and to execute and legally bind that party to this Covenant.

{Signatures follow}

Seal of the Department of the Army to be hereunto affixed this 17th day of March, 2006.

John W. Witter

Deputy Assistant Secretary of the Army for Installations and Housing


COMMONWEALTH OF VIRGINIA)
)ss
COUNTY OF ARLINGTON)

Given under my hand this 17th day of March, 2006.

Embossed Hereon Is My
Commonwealth of Virginia Notary Public Seal
My Commission Expires September 30, 2008
SHEKINAH Z. HILL

IN WITNESS WHEREOF, the **DEPARTMENT OF TOXIC SUBSTANCES CONTROL**,
STATE OF CALIFORNIA has caused these presents to be executed on this 17th day of
March, 2006.

DEPARTMENT OF TOXIC SUBSTANCES CONTROL



Anthony J. Landis
Chief of Northern California Operations, Office of Military Facilities

ACKNOWLEDGMENT

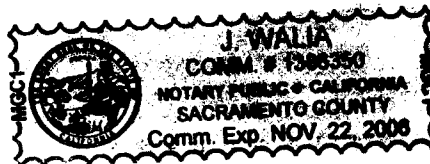
STATE OF CALIFORNIA)
COUNTY OF SACRAMENTO)ss

On March 17th 2006 before me, J WALIA, NOTARY PUBLIC,
Date Name and Title of Officer
 personally appeared Anthony J Landis,
Name of Signer

personally known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

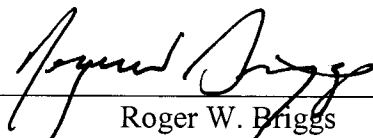
WITNESS my hand and official seal.

Imalia
Signature of Notary Public



IN WITNESS WHEREOF, the CENTRAL COAST REGIONAL WATER QUALITY CONTROL BOARD, STATE OF CALIFORNIA has caused these presents to be executed on this 23 day of FEBRUARY, 2006.

CENTRAL COAST REGIONAL WATER QUALITY CONTROL BOARD



Roger W. Briggs
Executive Officer

ACKNOWLEDGMENT

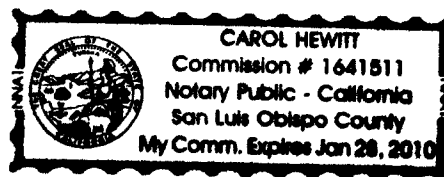
STATE OF CALIFORNIA)
)ss
COUNTY OF SAN LUIS OBISPO)

Carol Hewitt

I, the undersigned, a Notary Public in and for the State of California, County of San Luis Obispo, whose commission as such expires on the 28 day of JANUARY, 2010, do hereby certify that on this day personally appeared before me in the said State of California, County of San Luis Obispo, Roger W. Briggs, Executive Officer, whose name is signed to the foregoing document dated the 22 day of FEBRUARY, 2006, and acknowledges the same for and on behalf of the Department of Toxic Substances Control.

Given under my hand this 23 day of FEBRUARY, 2006.


NOTARY PUBLIC



CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of California

County of

SAN LUIS OBISPO

SS.

On FEBRUARY 23, 2006 before me,

CAROL HEWITT, Notary Public

Name and Title of Officer (e.g., "Jane Doe, Notary Public")

personally appeared

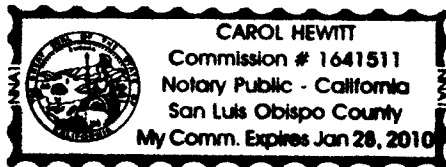
ROGER W. BRIGGS

Name(s) of Signer(s)

☒ personally known to me

☐ proved to me on the basis of satisfactory evidence

to be the person~~(s)~~ whose name~~(s)~~ is~~are~~ subscribed to the within instrument and acknowledged to me that he~~/she/they~~ executed the same in his~~/her/their~~ authorized capacity~~(ies)~~, and that by his~~/her/their~~ signature~~(s)~~ on the instrument the person~~(s)~~, or the entity upon behalf of which the person~~(s)~~ acted, executed the instrument.



WITNESS my hand and official seal.

Carol Hewitt
Signature of Notary Public

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

Description of Attached Document

Title or Type of Document: _____

Document Date: _____ Number of Pages: _____

Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer

Signer's Name: _____

- ☐ Individual
☐ Corporate Officer — Title(s): _____
☐ Partner — ☐ Limited ☐ General
☐ Attorney-in-Fact
☐ Trustee
☐ Guardian or Conservator
☐ Other: _____

Signer Is Representing: _____

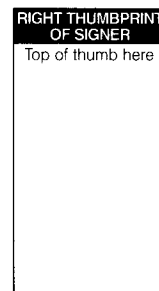


EXHIBIT "A"

Former Fort Ord Special Groundwater Protection Zone Map

EXHIBIT A

CRUP/Special Groundwater Protection Zone – Prohibition Zone/FOST – Track 0 and Track 0 Plug-in B Parcels (FOST 8)/Marina Group Parcels

EXHIBIT "B"

Monterey County Ordinance 04011, which prohibits pumping and use of the groundwater and defines the “Special Groundwater Protection Zone”.

EXHIBIT B

ORDINANCE NO. 04011

AN ORDINANCE OF THE COUNTY OF MONTEREY, STATE OF CALIFORNIA, PROHIBITING AND/OR REGULATING THE DRILLING OF NEW WATER WELLS IN IDENTIFIED AREAS OF THE COUNTY LOCATED ON THE FORMER FORT ORD MILITARY BASE; AND ADDING AN INDEMNIFICATION AND HOLD HARMLESS PROVISION APPLICABLE WITHIN SPECIAL GROUNDWATER PROTECTION ZONE AREAS FOR AREAS WHERE GROUNDWATER PROBLEMS ARE KNOWN TO EXIST TO CHAPTER 15.08, TITLE 15, OF MONTEREY COUNTY CODE.

COUNTY COUNSEL SUMMARY

This Ordinance takes effect 30 days after adoption to prohibit and/or regulate the approval of any ministerial development entitlements in a defined area of the County of Monterey within the boundaries of the former Fort Ord due to groundwater contamination constraints. This Ordinance amends the depth of "well" or "water well". The Ordinance prohibits the construction of water wells and precludes acceptance of applications for well construction permits within a zone of prohibition and further requires special evaluation by appropriate authorities for wells within a consultation zone around the contaminant plumes. The Ordinance also contains an indemnification and hold harmless provision for special groundwater protection zone areas where groundwater quality problems are known to exist.

THE BOARD OF SUPERVISORS OF THE COUNTY OF MONTEREY, STATE OF CALIFORNIA, ORDAINS AS FOLLOWS:

SECTION 1. Subsection A.15 of of Section 15.08.020 of Chapter 15.08 of Title 15, of the Monterey County Code, shall be amended to read as follows:

"Well" or "water well" means any artificial excavation constructed by any method for the purpose of extracting water from, or injecting water into, the underground. "Well" includes abandoned wells, monitoring wells, observation wells, cathodic protection wells, test wells, and dry wells. In the Former Fort Ord Special Groundwater Protection Zone, "Well" shall include geotechnical borings greater than 50 feet in depth. "Well" or "water well" does not include:

- a. Oil and gas wells, or geothermal wells constructed under the jurisdiction of the Department of Conservation, except those wells converted to use as water wells; or
- b. Wells used for the purpose of dewatering excavation during construction, or stabilizing hillsides or earth embankments.

SECTION 2. Subsection C of Section 15.08.140 of Chapter 15.08 of Title 15, of the Monterey County Code shall be added to read as follows:

C. In areas overlying or adjacent to the contaminant plumes on the former Fort Ord (Prohibition Zone), water well construction shall be prohibited and no application for a ministerial well permit shall be accepted for any real properties within the Prohibition Zone area. The Prohibition Zone area is identified on the former Fort Ord, Special Ground Water Protection Zone Map, prepared and maintained by the United States Army and on file in the County of Monterey, Department of Health. This map will be updated as determined by the Fort Ord Base Realignment and Base Closure Team (BCT). The BCT consists of representatives of the U.S. Army, U.S. Environmental Protection Agency, California Department of Toxic Substances Control, and the California Regional Water Control Board, Central Coast Region. Whether or not the location of a proposed well is within the territory subject to this prohibition shall be determined by the Health Officer in consultation with the BCT in accordance with the map on file in the Department of Health.

This prohibition shall not apply to monitoring wells constructed for groundwater quality monitoring and to wells constructed for the purpose of remediation of the contaminant plumes.

SECTION 3. Subsection D of Section 15.08.140 of Chapter 15.08 of Title 15, of the Monterey County Code shall be added to read as follows:

D. In areas where groundwater extraction may impact or be impacted by the contaminated plumes on the former Fort Ord (Consultation Zone) m well construction shall be subject to special review, evaluation, conditions of construction, and possibly prohibition against drilling. The Consultation Zone area is identified on the former Fort Ord, Special Ground Water Protection Map. Whether or not the location of a proposed well is within the consultation zone area shall be determined by the Health Officer in consultation with the BCT in accordance with the map on file in the Department of Health.

The applicant will be responsible to provide all such information necessary to determine potential impacts, including but not limited to design specifications, anticipated uses, perforation levels, pumping and production schedules, and a plume impact modeling report.

Applications will be deemed complete or incomplete within 30 days from the date of receipt. Any permits issued shall be subject to conditions of approval regarding construction and use. If permit approval is appropriate, as determined by the Health Officer, such permit will be issued within 30 days of submittal of a complete application, or as soon thereafter as reasonably practicable.

This Consultation Zone restriction shall not apply to monitoring wells constructed for groundwater quality or quantity monitoring, or to wells constructed for the purpose of remediation of the contaminant plumes.

SECTION 4. Subsection E of Section 15.08.140, of Chapter 15.08 of Title 15, of the Monterey County Code, shall be added to read as follows:

E. Each permit issued pursuant to this Section shall have as a condition of the permit approval, a requirement that the applicant indemnify and hold harmless the County and its officers, agents, and employees from actions or claims of any description brought on account of any injury or damages sustained by any person or property resulting from the issuance of the permit and the conduct of the activities authorized under said permit.

SECTION 5. EFFECTIVE DATE.

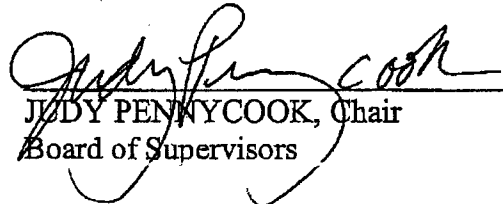
This Ordinance will be in effect 30 days after adoption by the Board of Supervisors.

PASSED AND ADOPTED this 27th day of April, 1999, by the following vote:

AYES: Supervisors Salinas, Pennycook, and Calcagno.

NOES: None.

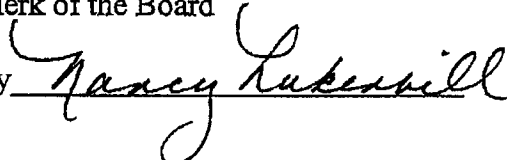
ABSENT: Supervisors Johnsen and Potter.


JEDY PENNYCOOK, Chair
Board of Supervisors

ATTEST:

Sally R. Reed
Clerk of the Board

By


Nancy Luckenbill

APPROVED AS TO FORM:

By

County Counsel

EXHIBIT "C"

Plate showing the locations of parcels to be restricted by this covenant, the locations of monitoring wells within the parcels, and extraction and injection wells within the Prohibition Zone and the Consultation Zone of the Special Groundwater Protection Zone.

EXHIBIT C

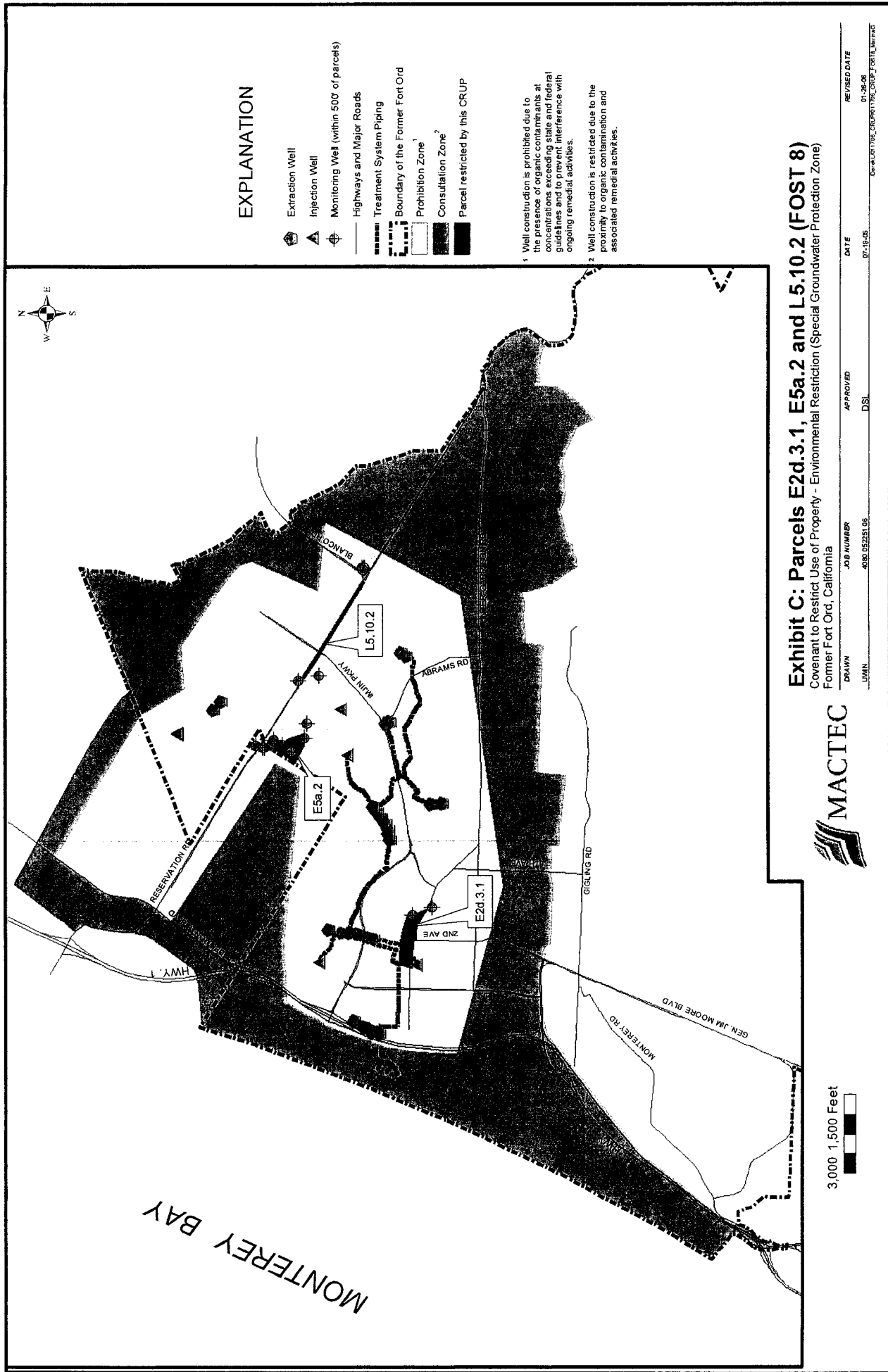


EXHIBIT "D"

Legal descriptions and records of survey of the parcels restricted by this covenant.

Notes to Exhibit D:

1. The Covenantor intends to transfer the parcels to the Fort Ord Reuse Authority (FORA).
2. FORA intends to transfer the parcels to the City of Marina.

EXHIBIT D

Legal Description of Parcel E2d.3.1

SITUATE in a portion of the former Fort Ord Military Reservation as it is shown on that certain map recorded in Volume 19 of Surveys at Page 1, Official Records of Monterey County, being within Monterey City Lands Tract No. 1, the City of Marina, County of Monterey, State of California; being more particularly described as follows:

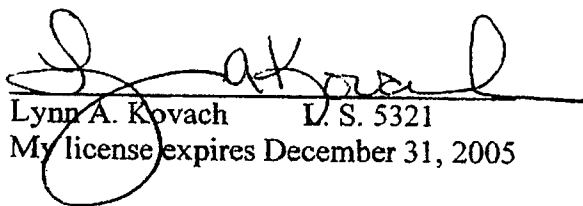
BEGINNING at a point on the common boundary line of Parcel 5 as it is shown on that certain map recorded in Volume 19 of Surveys at Page 153 being also a point on the boundary line of Parcel Marina III as it is shown on that certain map recorded on June 15, 2000 in Volume 23 of Surveys at Page 98 from which an angle point in said common boundary line bears North 79° 30' 00" West a distance of 169.50 feet, and running thence from said Point of Beginning

1. North 16° 45' 41" East for a distance of 469.97 feet to a point on the southerly boundary line of Parcel 3 as it is shown on that certain map recorded in Volume 20 of Surveys at Page 91 from which an angle point in said southerly boundary line bears North 88° 20' 00" West a distance of 2059.68 feet; thence continuing along said southerly boundary
2. South 88° 20' 00" East for a distance of 832.10 feet to the beginning of a tangent curve; thence
3. Along a curve to the right through an angle of 15° 40' 37", having a radius of 1950.00 feet, for a length of 533.55 feet and whose long chord bears South 80° 29' 41" East for a distance of 531.89 feet to a point of intersection with a tangent line; thence
4. South 72° 39' 23" East for a distance of 556.49 feet to a point on a line; thence leaving said southerly boundary
5. South 17° 23' 18" West for a distance of 56.81 feet to the beginning of a curve; thence
6. Along a curve to the left through an angle of 43° 04' 12", having a radius of 120.00 feet, for a length of 90.21 feet and whose long chord bears South 04° 08' 48" East for a distance of 88.10 feet to a point of intersection with a tangent line; thence
7. South 25° 40' 54" East for a distance of 100.60 feet to a point on a line; thence
8. South 23° 01' 22" East for a distance of 387.36 feet to a point on a line; thence
9. South 26° 54' 48" East for a distance of 260.87 feet to an angle point on the northerly boundary line of said Parcel 5; thence continuing along said northerly boundary line of said Parcel 5

10. North 56° 51' 10" West for a distance of 506.31 feet (shown as 506.27 feet on said map) to an angle point on said line; thence
11. North 61° 35' 00" West for a distance of 300.25 feet to the beginning of a curve on said line; thence
12. Along a curve to the left through an angle of 16° 45' 00", having a radius of 300.00 feet, for a length of 87.70 feet and whose long chord bears North 69° 57' 30" West for a distance of 87.39 feet to a point of intersection with a tangent line; thence
13. North 78° 20' 00" West for a distance of 110.73 feet to the beginning of a curve on said line; thence
14. Along a curve to the left through an angle of 11° 10' 00", having a radius of 750.00 feet, for a length of 146.17 feet and whose long chord bears North 83° 55' 00" West for a distance of 145.94 feet to a point of intersection with a non-tangential line; thence
15. North 89° 30' 00" West for a distance of 252.26 feet to a point on said line; thence
16. North 01° 40' 00" East for a distance of 19.79 feet to the beginning of a non-tangential curve; thence
17. Along a curve to the left through an angle of 90° 00' 00", having a radius of 58.00 feet, for a length of 91.11 feet and whose long chord bears North 43° 20' 00" West for a distance of 82.02 feet to a point of intersection with a tangent line; thence
18. North 88° 20' 00" West for a distance of 622.91 feet to the beginning of a tangent curve; thence
19. Along a curve to the right through an angle of 08° 50' 00", having a radius of 525.00 feet, for a length of 80.94 feet and whose long chord bears North 83° 55' 00" West for a distance of 80.86 feet to a point of intersection with a tangent line; thence
20. North 79° 30' 00" West a distance of 295.91 feet to the POINT OF BEGINNING.

Containing an area of 25.167 acres, more or less.

This legal description was prepared by


Lynn A. Kovach L. S. 5321
My license expires December 31, 2005



EXHIBIT

OF

Marina EDC Parcel E2.d3.1

A PORTION OF 'MARINA III'

AS SHOWN ON VOL. 23 OF SURVEYS AT PAGE 98,

BEING ALSO WITHIN FORT ORD MILITARY RESERVATION

AS SHOWN ON VOL. 19 OF SURVEYS AT PAGE 1,

BEING ALSO WITHIN MONTEREY CITY LANDS TRACT NO. 1

CITY OF MARINA

MONTEREY COUNTY, CALIFORNIA

MARINA III
23 SURVEYS 98

PARCEL 3 20 SURVEYS - 91

MARINA III
23 SURVEYS 98

Parcel E2.d3.1

1,096,291 sq. ft.
25.167 acres

P.O.B.

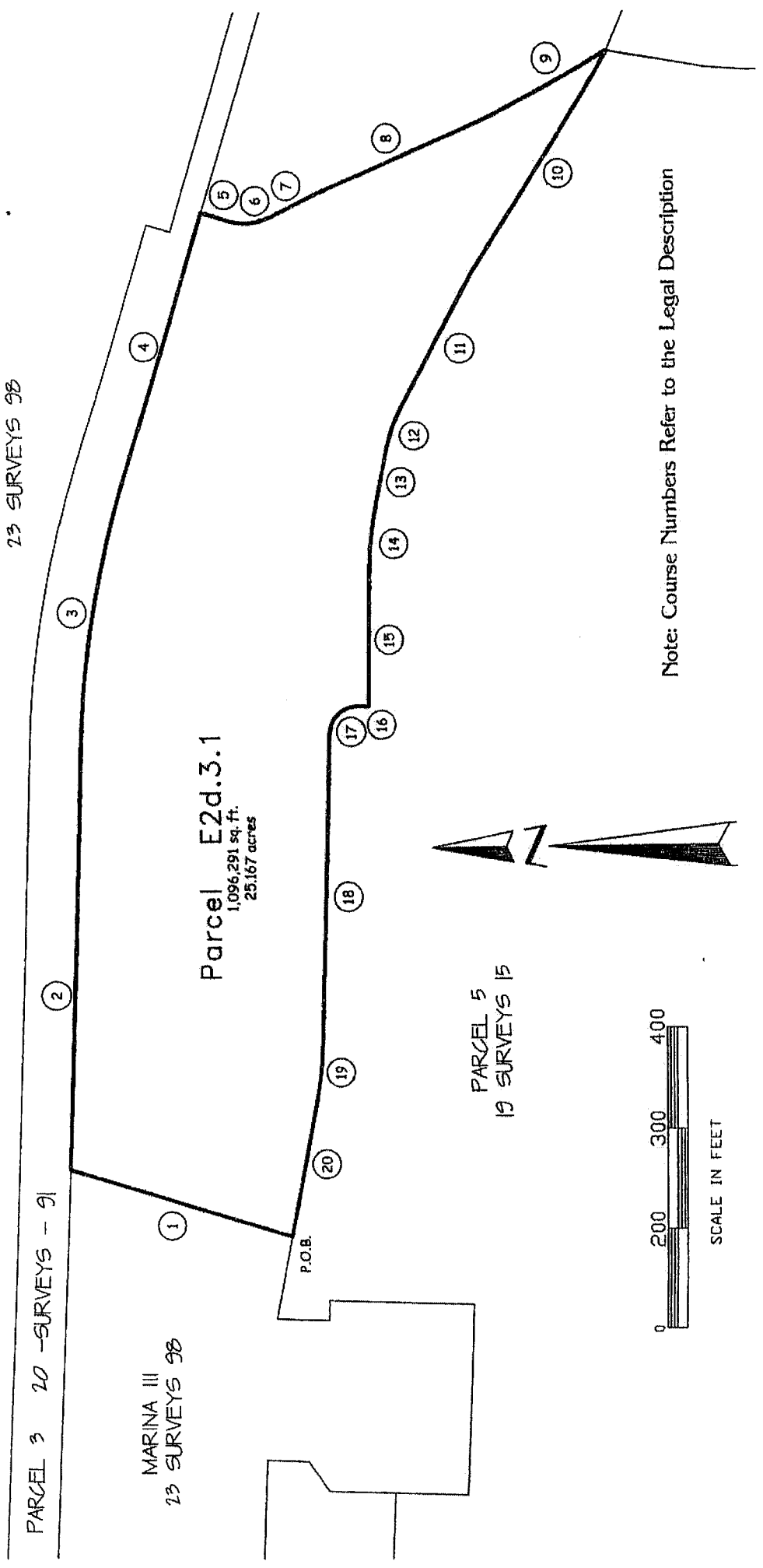
PARCEL 5
19 SURVEYS 15



SCALE IN FEET

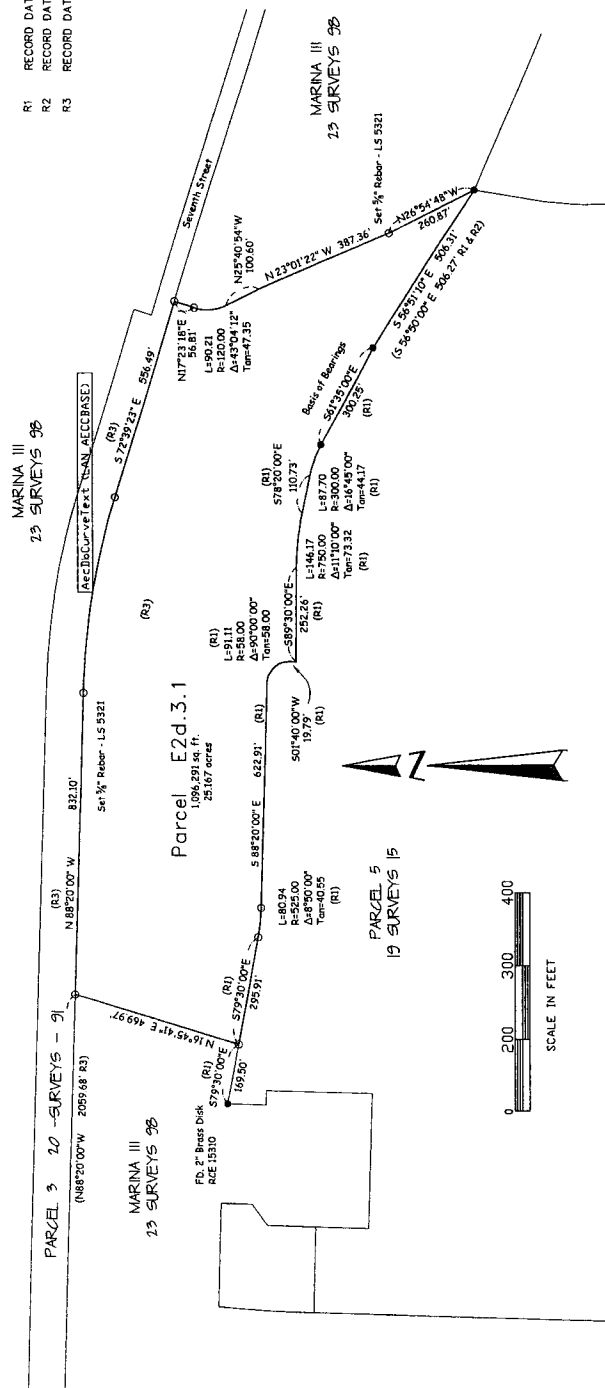


Note: Course Numbers Refer to the Legal Description



○ SET PK Nail &w/Washer Stamped L.S.5321, Unless Noted Otherwise
● FOUND 1" IRON PIPE TAGGED RCE 15310
UNLESS NOTED OTHERWISE

11 RECORD DATA PER VOL 23 -SURVEYS-PG. 98
12 RECORD DATA PER VOL 19 -SURVEYS- PG. 15
13 RECORD DATA PER VOL 20 -SURVEYS- PG. 91



THE BEARING OF N 61°35'00" W ALONG A PORTION OF THE NORTHERLY BOUNDARY LINE OF PARCEL 5
AS SHOWN ON THE MAP RECORDED IN VOLUME 19 OF SURVEYS AT PAGE 15
AS FOUND MONUMENTED, WAS TAKEN AS BASIS OF BEARINGS SHOWN UPON THIS MAP.

DISTANCES ARE EXPRESSED IN FEET AND DECIMALS THEREOF.

DISTANCES ARE EXPRESSED IN FEET AND DECIMALS THEREOF.

THIS MAP CORRECTLY REPRESENTS A SURVEY MADE BY ME OR UNDER MY DIRECTION, IN CONFORMANCE WITH THE REQUIREMENTS OF THE PROFESSIONAL LAND SURVEYORS' ACT AT THE REQUEST OF FORA, IN MAY, 2005.

THIS MAP HAS BEEN EXAMINED IN ACCORDANCE WITH
SECTION 8766 OF THE PROFESSIONAL LAND SURVEYOR'S ACT THIS
DAY OF 2005.

LYNN A. KOVACH
L.S. 5321
MY REGISTRATION EXPIRES
DECEMBER 31, 2005

THIS MAP HAS BEEN EXAMINED IN ACCORDANCE WITH
SECTION 8766 OF THE PROFESSIONAL LAND SURVEYOR'S ACT THIS
DAY OF 2005.

BY _____
JERRY COMBS
DEPUTY COUNTY SURVEYOR

RON LUNDQUIST
COUNTY SURVEYOR

FILED THIS _____ DAY OF _____ 2005
AT _____ IN VOLUME _____ OF _____
SURVEYS AT PAGE _____ AT THE REQUEST OF _____
BY _____

BY: _____ DEPUTY
COUNTY RECORDER
FEE: \$
FEDERAL NO.

OF

A PORTION OF "MARINA III"
AS SHOWN ON VOL. 23 OF SURVEYS AT PAGE 98,
BEING ALSO WITHIN FORT ORD MILITARY RESERVATION
AS SHOWN ON VOL. 19 OF SURVEYS AT PAGE 1,
BEING ALSO WITHIN MONTEREY CITY LANDS TRACT NO. 1

PREPARED FOR: FORT ORD REUSE AUTHORITY
SURVEYED BY: POLARIS CONSULTING
P. O. BOX 1378
CARMEL VALLEY, CA 93924
831-659-9564

SCALE: 1" = 200' VIEW: ROS DATE: JUNE 15, 2005
FILE NAME: FORA MAR-E2D31.DWG SHEET ONE OF ONE

Legal Description of Parcel E5.a.2

SITUATE in a portion of "Marina I" as it is shown on that certain map recorded in Volume 23 of Surveys at Page 91 being also a portion of the former Fort Ord Military Reservation as it is shown on that certain map recorded in Volume 19 of Surveys at Page 1, Official Records of Monterey County, being within Monterey City Lands Tract No. 1, the City of Marina, County of Monterey, State of California; being more particularly described as follows:

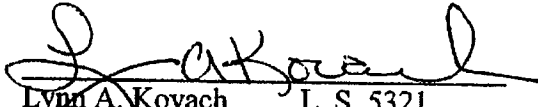
BEGINNING at the most northerly corner of Parcel 2 as it is shown on that certain map recorded in Volume 19 of Surveys at Page 131 being also a corner common to Parcel 1 as it is shown on said "Marina I"; thence from said Point of Beginning leaving the boundary line of said Parcel 2

1. North 64° 29' 18" West for a distance of 743.10 feet to a point on the northwesterly boundary of said Fort Ord Military Reservation; thence along said northwesterly boundary
2. North 32° 18' 10" East for a distance of 1175.41 feet to a point on said line; thence leaving said northwesterly boundary
3. South 57° 41' 50" East for a distance of 11.37 feet to a point on a line; thence
4. South 15° 31' 30" West for a distance of 42.22 feet to a point on a line; thence
5. South 04° 08' 30" West for a distance of 89.99 feet to a point on a line; thence
6. South 03° 29' 00" East for a distance of 57.61 feet to a point on a line; thence
7. South 18° 20' 50" East for a distance of 103.25 feet to a point on a line; thence
8. South 23° 44' 26" East for a distance of 117.98 feet to a point on a line; thence
9. South 37° 36' 22" East for a distance of 93.41 feet to a point on a line; thence
10. South 28° 40' 37" East for a distance of 103.15 feet to a point on a line; thence
11. South 23° 31' 24" East for a distance of 46.35 feet to a point on a line; thence
12. South 38° 50' 04" East for a distance of 39.30 feet to a point on a line; thence

13. South 26° 59' 53" East for a distance of 167.09 feet to a point on a line; thence
14. South 20° 02' 02" East for a distance of 144.49 feet to a point on a line; thence
15. South 13° 50' 39" East for a distance of 317.38 feet to a point on the northeasterly boundary of said "Marina I" being also a point on the common boundary line with "Marina I-A" as it is shown on that certain map recorded in Volume 23 of Surveys at Page 79; thence along said common boundary line
16. South 77° 46' 47" West a distance of 392.64 feet to the POINT OF BEGINNING.

Containing an area of 15.400 acres, more or less.

This legal description was prepared by


Lynn A. Kovach L. S. 5321
My license expires December 31, 2005

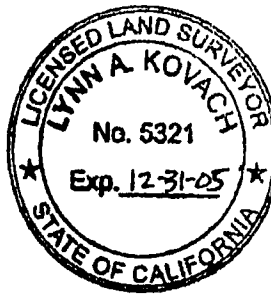


EXHIBIT
OF
PARCEL E5.a.2

Marina Jurisdiction, Fort Ord, FOST 8 EDC

Lying within "Marina I"

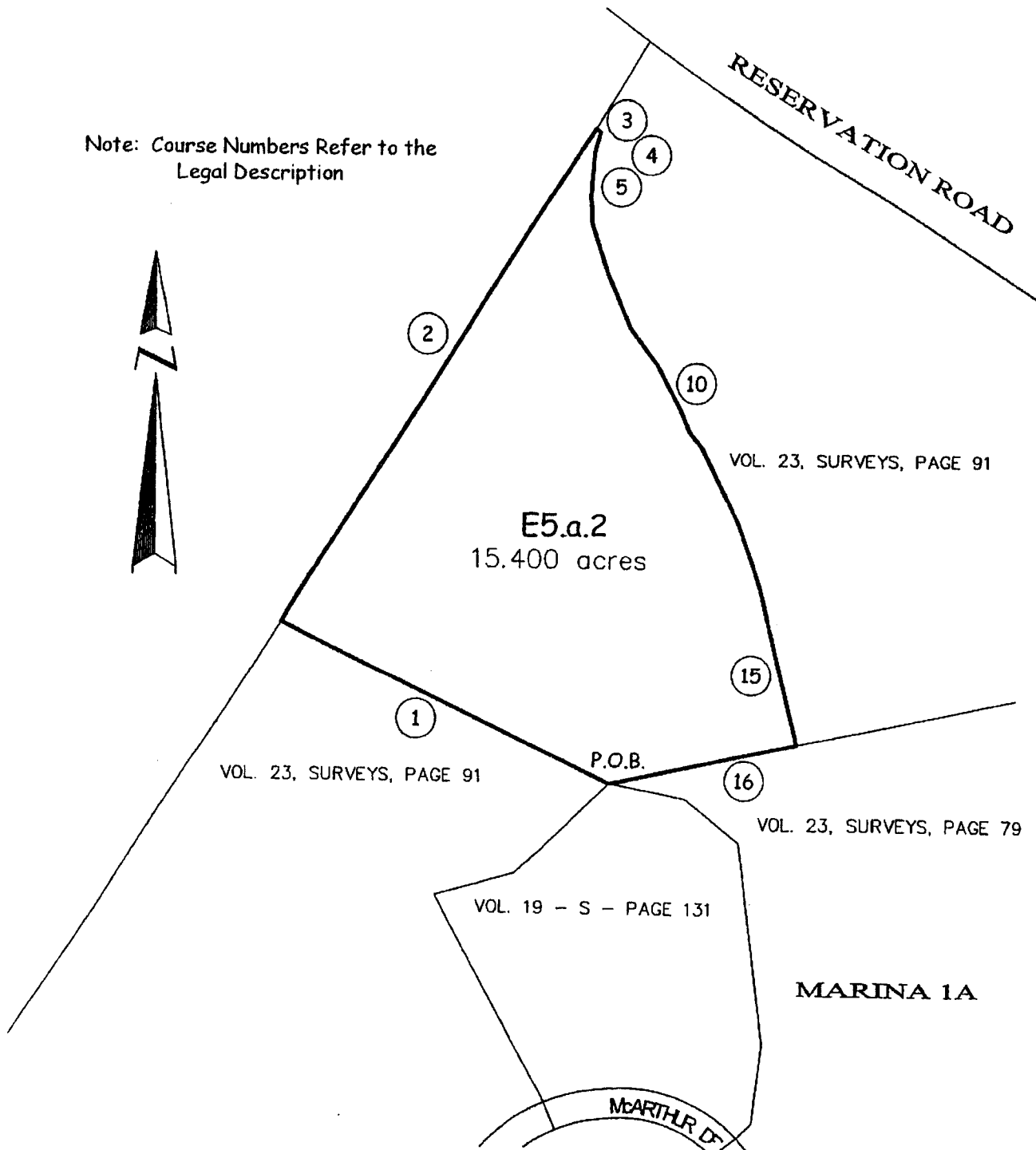
as shown on Vol. 23 of Surveys at Page 91

Being also withing Fort Ord Military Reservation and

Monterey City Lands Tract No. 1

Monterey County, California

Note: Course Numbers Refer to the
Legal Description



Legal Description of Parcel L5.10.2

SITUATE in a portion of the former Fort Ord Military Reservation as it is shown on that certain map recorded in Volume 19 of Surveys at Page 1, Official Records of Monterey County, being within Monterey City Lands Tract No. 1, the City of Marina, County of Monterey, State of California; being more particularly described as follows:

BEGINNING at the most northerly corner of Parcel 2 as it is shown on that certain map recorded in Volume 20 of Surveys at Page 110 being also a corner common to Parcel 2 as it is shown on that certain map recorded in Volume 19 of Surveys at Page 20; thence from said Point of Beginning leaving the boundary line of said Parcel 2 as it is shown on that certain map recorded in Volume 19 of Surveys at Page 20 and running along the northerly boundary line of said Parcel 2 as it is shown on that certain map recorded in Volume 20 of Surveys at Page 110

1. South $32^{\circ} 15' 50''$ West for a distance of 130.00 feet to a point on the northeasterly boundary line of Parcel 4 as it is shown on that certain map recorded in Volume 19 of Surveys at Page 20; thence continuing along said northeasterly boundary line of said Parcel 4
2. North $57^{\circ} 44' 10''$ West for a distance of 2452.28 feet to the corner common to Parcels 4 and 7 of said map; thence continuing along the northeasterly boundary line of said Parcel 7
3. North $57^{\circ} 44' 10''$ West for a distance of 520.21 feet to the most northerly corner of said Parcel 7 at Imjin Road; thence
4. North $57^{\circ} 44' 10''$ West for a distance of 200.00 feet to the most easterly corner of Parcel 6 of said map at Imjin Road; thence continuing along the northeasterly boundary line of said Parcel 6
5. North $57^{\circ} 44' 10''$ West for a distance of 570.25 feet to the corner common to Parcels 6 and 5 of said map; thence continuing along the northeasterly boundary line of said Parcel 5
6. North $57^{\circ} 44' 10''$ West for a distance of 467.85 feet to a point on said line; thence leaving said northeasterly boundary

EDC Parcel L5.10.2
FOST 8 & 9
Fort Ord Military Reservation
City of Marina
Monterey County, California

7. North 32° 15' 50" East for a distance of 130.00 feet to a point on the southerly boundary line of said Parcel 2; thence along the southwesterly boundary line of said Parcel 2
8. South 57° 44' 10" East a distance of 4210.59 feet to the POINT OF BEGINNING.

The above described parcel being a portion of Reservation Road, 130 feet wide as it is shown on Volume 19 of Surveys at Page 20.

Containing an area of 12.566 acres, more or less.

This legal description was prepared by

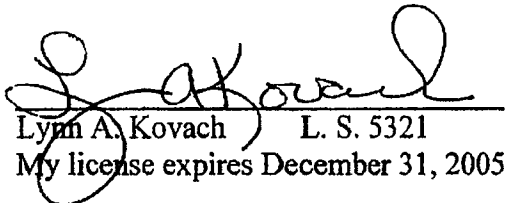

Lynn A. Kovach L. S. 5321
My license expires December 31, 2005



EXHIBIT
of
PARCEL L5.10.2
Marina Jurisdiction
Fort Ord
FOST 8 EDC

Lying within the Fort Ord Military Reservation
as shown on Vol. 19 of Surveys at Page 1
Being also within Monterey City Lands Tract No. 1
Monterey County, California

Parcel L5.10.2
547,382 sq. ft.
12.57 acres

Note: Course Numbers Refer to the Legal
Description

